

<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	14 July 2021
<b>Report Title</b>	Options for the delivery of property maintenance
<b>Cabinet Member</b>	CLlr Monique Bonney, Cabinet Member for Property and Economy
<b>SMT Lead</b>	Nick Vickers, Chief Financial Officer
<b>Head of Service</b>	Nick Vickers, Chief Financial Officer
<b>Lead Officer</b>	Debbie Hardy, Buildings Manager
<b>Key Decision</b>	Yes
<b>Classification</b>	<b>Open</b>
<b>Recommendation</b>	Cabinet is recommended to proceed with Option 3 as set out in the report which is a modified term contract for the delivery of property maintenance from 1 April 2022.

## 1 Purpose of Report and Executive Summary

- 1.1 The purpose of this report is to present members with a detailed appraisal of the options for the delivery of reactive and planned property maintenance and to recommend the most favourable option.

## 2 Background

- 2.1 In March of this year, Cabinet took the decision to extend the existing three-year contract for planned and reactive term maintenance by six months rather than the full two years permitted under the contract.
- 2.2 This was on the basis that officers would present a more detailed options appraisal of the alternative options to a term maintenance contract.
- 2.3 The current contract runs until 31 March 2022 and its annual value is approximately £150,000 - £200,000.

## 3 Proposals

- 3.1 The following options have been explored in detail and the findings are reported here:

*Option 1:* Retain the status quo, ie. a single term contract,

*Option 2:* Create a framework contract along the lines of the Staying Put framework,

*Option 3:* Modify the current term contract to encourage all labour and materials to be locally based/procured.

***Option 1 (Retain the status quo)***

- 3.2 The current arrangement of a three or five year term contract has been in place since 2009 when a joint procurement was carried out with Ashford Borough Council as part of the Swale Ashford Property Partnership. Since the partnership ended, SBC has continued to procure a new contract every three or five years with the current contractor being the fourth company to carry out this work.
- 3.3 The contract operates on a “time and materials” basis. This means that tenders are evaluated based on the hourly rates submitted for each trade and the percentage uplift on the price of materials, plant and specialist subcontractors. Cost control is achieved through the use of signed job sheets verifying the time spent on site and the submission of invoices for materials, plant and specialist subcontractors. Quality is achieved through the use of key performance indicators (KPIs) and post completion inspections.
- 3.4 Jobs are categorised as either emergency, urgent, routine or planned and the required response times are fixed based on the category. One of the KPIs measures the contractor’s ability to meet the response times.
- 3.5 As part of the contract, the contractor is also required to provide diagnostic advice in the event that the cause of a defect and the remedial works required is complex or requires access equipment to investigate. This is provided at no extra cost on the contract.
- 3.6 Payments are made monthly following submission and agreement of a monthly valuation detailing the works carried out in the previous month. A meeting is held between the Buildings Manager and the contractor to discuss any queries.
- 3.7 The term contract is not necessarily used for all planned maintenance projects. It may be more appropriate to carry out a separate procurement exercise for larger projects to ensure that value for money is verified. The term contractor would be eligible to tender for the project.

***Option 2 (Framework contract similar to Staying Put)***

- 3.8 This arrangement would involve a procurement process based on “lots” in which contractors could submit bids for all or any of the lots. A framework would then be created that listed the contractors that had been successful in tendering for each lot. The number of lots would require further consideration but could include general building contractors, roofing contractors, stonemasons, groundwork contractors and electrical contractors.
- 3.9 The framework could also be extended to include maintenance work to car parks, parks and open spaces which is currently carried out by Leisure Services. This would involve the further trades of, for example, road marking, fencing and gates, hard landscaping, playground equipment and safety surfaces, bins and street furniture and removal of fly-tipping.

- 3.10 There are a number of options around the pricing of the framework contract. This could be by using a schedule of rates (either priced or unpriced) or on a time and materials basis. It is likely that a different pricing mechanism could be used for different lots.
- 3.11 The current Staying Put framework uses a priced schedule of rates and contractors have quoted a percentage uplift (or reduction) on the prices in the schedule. The nature of the work relates mainly to disabled adaptations in domestic properties which allows the schedule to be relatively short and simple. Any work not covered by the schedule is procured by seeking a quotation from one of the contractors on the framework. Scheduled work is awarded on a rota basis, allowing each contractor to obtain a share of the work throughout the duration of the framework.
- 3.12 The Staying Put framework is administered by two technical officers who carry out pre and post completion inspections for all projects except the very small ones such as grabrails, bannisters and key safes. They also meet the contractor on site to discuss the work if there are “add-ons” to the scheduled work. Quality is controlled using a “low score” system whereby if a contractor is given three low scores they are removed from the framework.
- 3.13 The procurement process for the framework contract could be carried out in such a way as to encourage local tenderers to bid. The definition of “local” may have to be varied for each lot depending on the supply of suitable local contractors. For example, a lack of stonemasons based in Swale may require the definition to include the whole of Kent for that lot.
- 3.14 The administrative cost of this option will be considerably higher than options 1 or 3 due to the additional work involved. With no contractor diagnosis service available, many jobs will require inspecting prior to raising an order so that the correct trade is instructed to carry out the work. Dealing with multiple contractors will also increase the amount of administrative work as instead of a single monthly invoice being agreed and processed, there are likely to be multiple invoices from a range of different contractors. It has been estimated that the additional cost will be in the region of £25,000 per annum which equates to 50% of a scale 7 post.

### ***Option 3 (Modified term contract)***

- 3.15 Since the current term contract document was written, the importance of environmental considerations and the commitment to the climate emergency have become higher priorities for the Council. A further option is therefore to modify the current contract to encourage all labour, materials and specialist subcontractors to be sourced locally.
- 3.16 As for option 2, the definition of “local” will need to be carefully considered to ensure that there is an adequate pool of labour available and a sufficient number of subcontractors that are eligible to carry out any specialist work.

### ***TUPE implications***

- 3.17 Assuming there is a change of contractor then, in respect of all three options, the issue will be whether the change in service provision will constitute a relevant transfer under

the TUPE regulations. If so, the new contractor (or contractors in the case of option 2) may seek an indemnity from us in relation to the transferring employees' employment. In principle a relevant transfer occurs when the property maintenance ceases to be carried out by the incumbent contractor and is carried by a subsequent contractor. It is understood that two employees of the current contractor are almost wholly occupied in providing the property maintenance services to us. That suggests that the organised grouping requirement under the regulations will be satisfied and a relevant transfer will take place under options 1 and 3. Under option 2 it may be more difficult to determine whether a relevant transfer will take place because the organised grouping requirement of the regulations has not been met and/or the maintenance services are to be fragmented. Whether this is the case will require specialist legal advice.

### ***Options Appraisal***

<b>Option</b>	<b>Financial implications</b>	<b>Staffing implications</b>	<b>Advantages</b>	<b>Disadvantages</b>
Term contract	<ul style="list-style-type: none"> <li>• May be small labour price increase from current contract if re-tendered.</li> <li>• Material price increases will affect all options to the same degree.</li> </ul>	Currently administered by the Buildings Manager with support from the Facilities Assistant. This takes up approximately 10% of the BM's time and 20% of the FA's time.	<ul style="list-style-type: none"> <li>• Diagnostic advice included in contract.</li> <li>• Single monthly invoice.</li> <li>• Good cost and quality control.</li> <li>• Contractor is guaranteed of work based on annual maintenance budget.</li> </ul>	<ul style="list-style-type: none"> <li>• No requirement to use local labour or locally sourced materials.</li> <li>• Contractor's on-cost is applied to specialist subcontractors.</li> </ul>
Framework	<ul style="list-style-type: none"> <li>• Additional staff resource approximately £25K (50% of a scale 7 post).</li> <li>• Less cost control could result in higher prices.</li> </ul>	Estimated to require approximately 50% of a new Building Surveyor post.	<ul style="list-style-type: none"> <li>• No main contractor on-cost for specialist trades.</li> <li>• Framework could be written to encourage local companies.</li> <li>• Potentially provides opportunities to greater number of local companies.</li> </ul>	<ul style="list-style-type: none"> <li>• Further legal advice on TUPE implications will be required.</li> <li>• Diagnostic advice would be at an additional cost.</li> <li>• Multiple invoices to be processed each month.</li> <li>• No guarantee of work for any contractor on the framework.</li> </ul>
Modified term contract	As Option 1	As Option 1	<ul style="list-style-type: none"> <li>• As Option 1</li> <li>• Opportunity to encourage local labour or locally sourced materials.</li> </ul>	<ul style="list-style-type: none"> <li>• Could be small cost increase compared to Option 1 as less competition.</li> <li>• Contractor's on-cost is applied to specialist subcontractors.</li> </ul>

## 4 Alternative Options

- 4.1 Three options are set out in the body of the report.
- 4.2 A further option that is not set out above would be to have no formal arrangements in place for reactive maintenance. This would be a return to the arrangements that were in place prior to 2009. Orders would be raised for each job to any contractor that was willing and available to carry out the work. This is not recommended for two reasons: (1) the lack of cost and quality control and the high staff resource required in administering the process, and (2) it would be very difficult, if not impossible, to ensure compliance with Contract Standing Orders as it would not be possible to obtain a quotation in advance for many of the emergency and urgent jobs.
- 4.3 Another option would be to extend the current contract by a further 18 months so that it continues for the full five-year term. This would avoid the need for a procurement exercise and ensure that any labour price rises are kept within the terms of contract.

## 5 Consultation Undertaken or Proposed

- 5.1 An informal consultation exercise has been carried out with other Kent authorities to find out how non-housing property maintenance is administered elsewhere. Three authorities reported that they had no formal arrangements in place and issued work to contractors as required. The others that responded have a term contract in place.

## 6 Implications

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Keeping the Council assets in good condition and ensuring that the work is procured and managed effectively meets a number of the corporate priorities including investing in the environment, supporting local heritage and making the Council fit for the future.
Financial, Resource and Property	The financial and staff resource implications are set out in the body of the report.
Legal, Statutory and Procurement	Any decision reached must be in line with the Public Contracts Regulations 2015, the SBC Contract Standing Orders and any guidance in PPNs.
Crime and Disorder	None identified at this stage.

Environment and Climate/Ecological Emergency	The environmental implications of the options are set out in the report.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	All contractors, regardless of which option is chosen, are required to comply with our safeguarding policy.
Risk Management and Health and Safety	<p>The main risk associated with options 1 and 3 are that, despite a rigorous procurement process, the contractor could consistently under-perform. This increases the staff resource required to manage the contractor's performance or in extreme cases could lead to an early termination of the contract. Health and safety compliance is addressed as part of the procurement process and managed throughout the contract.</p> <p>The main risk associated with option 2 is that by dealing with multiple contractors for different types of repairs, quality control and the management of health and safety is more difficult to control leading to a greater risk of non-compliance, particularly from the smaller companies that may not have the resources to deal proactively with health and safety issues.</p>
Equality and Diversity	None identified at this stage
Privacy and Data Protection	None identified at this stage.

## 7 Appendices

7.1 None.

## 8 Background Papers

None